

03/15/02



03-18-02

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PATENT  
 Attorney Docket No. 101.0042-05000  
 Customer No. 22882  
 Express Mail Label No. ET747368313US

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Box Patent Application  
 Assistant Commissioner For Patents  
 Washington, D.C. 20231



Prior Application: Art Unit: 3731  
 Examiner: U. Ho

SIR: This is a request for filing a

☒ Continuation ☐ Continuation-in-Part ☐ Divisional Application under 37 C.F.R. § 1.53(b) of pending prior application Serial No. 09/563,705 filed November 14, 2001 of Gary Karlin Michelson, M.D. for SPINAL IMPLANT CONTAINING BONE MORPHOGENETIC PROTEIN (as amended).

1. ☒ Enclosed is a complete copy of the prior application including the oath or Declaration and drawings, if any, as originally filed. I hereby verify that the attached papers are a true copy of prior application Serial No. 09/563,705 as originally filed on November 14, 2001.
2. ☐ Enclosed is a substitute specification under 37 C.F.R. § 1.125.
3. ☒ Cancel Claims 2-53.
4. ☒ A Preliminary Amendment is enclosed.
5. ☒ The filing fee is calculated on the basis of the claims existing in the prior application as amended at 3 and 4 above.

Basic Application Filing Fee					\$740	\$ 740.00
	Number of Claims		Basic	Extra Claims		
Total Claims	25	-	20	5	x \$18	90.00
Independent Claims	1	-	3	0	x \$84	0
[ ] Presentation of Multiple Dep. Claim(s)					+\$280	0
Subtotal						\$ 830.00
Reduction by 1/2 if small entity						- 0
TOTAL APPLICATION FILING FEE						\$ 830.00

6. ☒ A fee in the amount of \$830.00 to cover the filing fee is to be charged to Deposit Account No. 50-1066.
7. ☒ The Commissioner is hereby authorized to charge any fees which may be required including fees due under 37 C.F.R. § 1.16 and any other fees due under 37 C.F.R. § 1.17, or credit any overpayment during the pendency of this application to Deposit Account No.50-1066.
8. ☒ Amend the specification by inserting before the first line, the sentence:

--This is a ☒ continuation ☐ division of application Serial No. 09/563,705, filed November 14, 2001; which is a continuation of application Serial No. 09/126,585, filed July 31, 1998, now U.S. Patent No. 6,136,001; which is a continuation of application Serial No. 08/926,334, filed September 5, 1997, now U.S. Patent No. 6,120,503; which is a continuation of Serial No. 08/589,787, filed January 22, 1996; which is a continuation of 08/219,626, filed March 28, 1994; all of which are incorporated herein by reference.--

9. ☒ New formal drawings are enclosed.
10. ☐ The prior application is assigned of record to:\_\_\_\_\_
11. ☐ Priority of application Serial No. \_\_\_\_\_, filed on \_\_\_\_\_ in \_\_\_\_\_ (country) is claimed under 35 U.S.C. § 119. A certified copy
  - ☐ is enclosed or ☐ is on file in the prior application.
12. ☐ A verified statement claiming small entity status
  - ☐ is enclosed or ☐ is on file in the prior application.
13. ☒ The power of attorney in the prior application is to at least one of the following: MARTIN & FERRARO, LLP; Thomas H. Martin, Reg. No. 34,383; Amedeo F. Ferraro, Reg. No. 37,129; and Todd M. Martin, Reg. No. 42,844.
14. ☐ The power appears in the original declaration of the prior application.
15. ☒ Since the power does not appear in the original declaration, a copy of the Revocation of Original Power of Attorney and Grant of New Power of Attorney in the prior application is enclosed.

16. ☒ Please address all correspondence to:

MARTIN & FERRARO, LLP  
14500 Avion Parkway, Suite 300  
Chantilly, Virginia 20151-1101.



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PATENT TRADEMARK OFFICE

17. ☐ Recognize as associate attorney \_\_\_\_\_  
(name, address & Reg. No.)

18. ☒ Also enclosed is \_\_\_\_\_.

PETITION FOR EXTENSION. If any extension of time is necessary for the filing of this application, including any extension in the parent application, serial no. 09/563,705, filed November 14, 2001, for the purpose of maintaining copendency between the parent application and this application, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to our Deposit Account No. 50-1066. A duplicate copy of this paper is enclosed for use in charging the deposit account.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: March 15, 2002

By: Thomas H. Martin  
Thomas H. Martin  
Registration No. 34,383

14500 Avion Parkway, Suite 300  
Chantilly, VA 20151-1101  
Telephone: (703) 679-9300  
Facsimile: (703) 679-9303

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
)  
Gary Karlin Michelson, M.D. )  
)  
Serial No. (Cont. of 09/563,705) ) (Group Art Unit: 3731)  
)  
Filed: March 15, 2002 ) (Examiner: U. Ho)  
)  
For: SPINAL IMPLANT CONTAINING )  
BONE MORPHOGENETIC PROTEIN )  
(as amended) )

BOX PATENT APPLICATION  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

**CERTIFICATE OF MAILING VIA U.S. EXPRESS MAIL**

Express Mail Mailing Label No. ET747368313US

Date of Deposit: March 15, 2002

I hereby certify that:

1. Rule 53(b) Continuation Application Transmittal Form (in duplicate; \$830.00 filing fee charged to Deposit Account No. 50-1066)
2. Copy of prior application including Declaration and drawings
3. Amendment with attachments
4. 10 sheets of formal drawings (A4 paper; Figs. 1-35)
5. Copy of Revocation of Original Power of Attorney and Grant of New Power of Attorney
6. Self-addressed return postcard receipt

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service with sufficient postage under 37 C.F.R. § 1.10 on the date indicated above and are addressed to:

Box PATENT APPLICATION  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Date: March 15, 2002

  
Sandra L. Blackmon

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